Department determined in the investigation that petitioner represented only 22 percent of U.S. magnesium producers. Respondent contends that Magcorp is merely one producer objecting to the revocation of the order and that the Department has revoked orders in the past over the objections of a single producer.

Department's Position: NHCI contested Magcorp's authority to represent the US industry in its challenge to the original less than fair value determination but did not prevail. (*See* Magnesium from Canada, No. USA–92–1904–03 (August 16, 1993).) Nothing has changed which would warrant a different conclusion in this proceeding. Because Magcorp is an interested party, it is entitled to participate and comment on revocation. Finally, our determination is based on the fact that NHCI has not met the revocation requirements, not on Magcorp's objection.

Final Results of Review

As a result of this review, we find that the following margin exists for the period August 1, 1996, through July 31, 1997:

Manufacturer/exporter	Period	Margin (percent)
Norsk Hydro Canada Inc.	8/1/96–7/31/97	0

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the review and for future deposits of estimated duties for the manufacturers/exporters subject to this review. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this new shipper administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate indicated above; (2) for companies not covered in this review, but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the most recent rate established for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be the ''all others'' rate of 21 percent established in the amended final determination of sales at less than fair value (58 FR 62643 (November 29, 1993)).

These deposit requirements will remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: March 8, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–6281 Filed 3–15–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–806]

Cut-to-Length Carbon Steel Plate From Belgium; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On September 9, 1998, the Department of Commerce (the Department) published in the **Federal Register** its Preliminary Results of administrative review of the countervailing duty order on cut-to-length carbon steel plate from Belgium for the period January 1, 1996 through December 31, 1996 (63 FR 48188). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: March 16, 1999.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Eva Temkin, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Fabrique de Fer de Charleroi, S.A. (Fafer). This review also covers the period January 1, 1996 through December 31, 1996 and 28 programs.

Since the publication of the Preliminary Results on September 9, 1998 (63 FR 48188), the following events have occurred. We invited interested parties to comment on the Preliminary Results. On October 9, 1998, case briefs were submitted by Fafer, which exported cut-to-length carbon steel plate to the United States during the review period (respondent), and Bethlehem Steel Corporation, U.S.

Steel Group, and Inland Steel Industries, Inc. (petitioners). On October 16, 1998, rebuttal briefs were submitted by petitioners and respondent.

In November 1998, the Department conducted verification of the government and company questionnaire responses. For additional information on verification, see the *Verification* section of this notice. Interested parties submitted comments to the Department's verification reports on February 8, 1999 and rebuttal comments on February 12, 1999.

On December 17, 1998, we extended the period for completion of the Final Results to 180 days from the date on which the Preliminary Results were published pursuant to section 351.221(h)(1) of the Department's regulations. *See Cut-to-Length Carbon Steel Plate from Belgium; Extension of Time Limit for Countervailing Duty Administrative Review* (63 FR 69612). At the request of petitioners, the Department held a public hearing on February 19, 1999.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations reference 19 CFR part 351 (1998).

Scope of the Review

The products covered by this review are certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under subheadings 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from these investigations is grade X–70 plate. The HTS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes. The written description of the scope remains dispositive.

Allocation Methodology

In *British Steel plc.* v. *United States,* 879 F.Supp. 1254 (February 9, 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against the allocation period methodology for non-recurring subsidies that the Department had employed for the past decade, a methodology that was articulated in the *General Issues Appendix* (58 FR 37227) appended to *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria;* 58 FR 37217 (July 9, 1993) (*GIA*). In accordance with the Court's decision on remand, the Department determined that the most reasonable method of deriving the allocation period for nonrecurring subsidies is a company-specific average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *British Steel plc.* v. *United States,* 929 F.Supp 426, 439 (CIT 1996) (*British Steel II*). Accordingly, the Department has applied this methodology to those non-recurring subsidies that have not yet been countervailed.

Fafer submitted an AUL calculation based on depreciation and asset values of productive assets reported in its financial statements. Fafer's AUL was derived by adding depreciation charges for ten years, and dividing these charges by the sum of average gross book value of depreciable fixed assets for the related periods. We found this calculation to be reasonable and consistent with our company-specific AUL objective. Fafer's calculation resulted in an average useful life of 26 years. For non-recurring subsidies received prior to the POR and which have already been countervailed based on an allocation period established in an earlier segment of the proceeding, it is not reasonable or practicable to reallocate those subsidies over a different period of time. Since the countervailing duty rate in earlier segments of the proceeding was calculated based on a certain allocation period and the resulting benefit stream, redefining the allocation period in later segments of the proceeding would entail taking the original grant amount and creating an entirely new benefit stream for that grant. Therefore, for purposes of these Final Results, the Department is using the original allocation period assigned to each nonrecurring subsidy received prior to the POR, which has already been countervailed. *See Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review,* 62 FR 16549 (April 7, 1997) (*Carbon Steel Products from Sweden*).

Verification

As provided in section 782(i) of the Act, we verified information submitted by the Government of Belgium (GOB), the Government of Wallonia (GOW), and Fafer, except as discussed in the "Facts Available" section of this notice below. We followed standard verification procedures, including meetings with government and company officials and examination of relevant accounting and financial records and other original source documents. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (CRU) (Room B–099 of the Main Commerce Building).

Facts Available

Section 776(a)(2) of the Act requires the Department to use facts available if an interested party or any other person fails to provide information that has been requested by the deadlines for submission of the information. In this review, we found at verification that Fafer did not report to the Department a loan provided for the purpose of producing an audio-visual calling card for foreign businessmen. This information was unreported in the questionnaire responses. We used information that we obtained at verification about the loan to determine the countervailable benefits provided by this program. For additional information about the loan, see the *New Programs Determined to Confer Subsidies* section of this notice.

Moreover, in the *Preliminary Results,* the Department did not countervail cash grants received by Parachevement et Finitions de Metaux (PFM) and S.A.

Chaleroi Deroulage (CD) CD and PFM (Fafer's subsidiaries) under the Law of 1970, because Fafer claimed that these subsidiaries do not produce the subject merchandise. At verification, company officials again stated that the Fafer's subsidiaries CD and PFM did not manufacture the subject merchandise. However, the company inferred in its February 12, 1999 submission that CD and PFM could possibly produce merchandise subject to the order, but that this had not occurred during the POR. Moreover, at the public hearing held on February 19, 1999, respondent's counsel also clarified that there was no technical reason that the equipment owned by CD and PFM could not be used to transform downstream, non-subject merchandise into subject merchandise. *See Transcript of Public Hearing on Cut-to-Length Carbon Steel Plate from Belgium* dated February 19, 1999 at 55–57.

On the basis of the fact that CD and PFM can, in their down-stream processing, produce merchandise which is covered by the scope of the order, we determine that the cash grants under the Law of 1970, a program previously found countervailable by the Department, are attributable to the total sales of Fafer, including its subsidiaries and thus benefitted the subject merchandise during the POR. This approach is consistent with our practice to attribute subsidies received by one company to the sales of another related company that also produces the subject merchandise. Accordingly, we are attributing benefits received by CD and PFM to the consolidated group in these Final Results. (*See Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review* 63 FR 43905–43912 (August 17, 1998.) This also conforms with section 351.525(b)(6)(ii) of the Department's final countervailing duty regulations, which explicitly states that ''if two (or more) corporations with cross-ownership produce the subject merchandise, the Secretary will attribute the subsidies received by either or both corporations to the products produced by both corporations.'' While these regulations do not govern this proceeding, they articulate the Department's practice and application of the statute. Cross-ownership clearly exists between CD and PFM and the parent company, Fafer; record evidence also shows that all companies could produce the merchandise subject to the countervailing duty order.

In our questionnaires, we asked the respondent to provide subsidy information for those affiliates that are involved in the production of the subject merchandise. If Fafer had accurately reported the activities of its affiliates CD and PFM, the Department would have asked CD and PFM to respond to the questionnaires with respect to particular subsidies. As a result, grants received by affiliated companies under the Law of 1970 during the POR were not reported in the questionnaire responses. At verification, we found that CD and PFM received grants under the Law of 1970 in 1993 and 1996, respectively and collected information on these grants. Moreover, Fafer did not provide total sales data for CD and PFM.

Although other subsidies provided under the Law of 1970, such as research and development (R&D) assistance, have been found not specific after 1988 (*see Programs Found Not to Confer Subsidies*), we have no information on industry specificity for the cash grants program in the Walloon region of Belgium after 1988. Therefore, we are using adverse facts available and countervailing these grants in these Final Results. Section 776(b) of the Act provides that the administering authority may use an inference that is adverse to the interests of an interested party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record.

We used information that we obtained at verification about the grants provided to affiliated companies to determine the countervailable benefits provided by these programs. For additional information about these grants to CD and PFM, see the *Programs Previously Determined to Confer Subsidies* sections of this notice. In addition, we used facts available to calculate Fafer's consolidated sales for the POR, which includes sales of CD and PFM, because sales information for these subsidiaries during the POR was not placed on the record. An explanation of our calculation is provided in *Comment 9* below.

Analysis of Programs

Based upon the responses to our questionnaires, the results of verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

A. Program Previously Determined to Confer Subsidies

1. Cash Grants and Interest Subsidies Under the Economic Expansion Law of 1970

In the Preliminary Results, we found that cash grants and interest subsidies under the 1970 Law conferred countervailable subsidies on the subject merchandise (*see Cut-to-Length Carbon Steel Plate From Belgium Preliminary Results of Countervailing Duty Review* 63 FR 48188; 48189 (September 9, 1998) (*Preliminary Results*)). Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, has led us to change our preliminary calculations. At verification, we obtained more detailed information with which to calculate the difference between benefits provided to Fafer in 1982, 1984, and 1985 under the 1970 Law and the 1959 Law than that used in our preliminary calculations.

In the *Preliminary Results*, we found this program to be regionally specific. As discussed in greater detail below, other subsidies provided under the 1970 Law for R&D assistance have been found not specific after 1988. (*See Research and Development Loan Provided Under the Economic Expansion Law of 1970* under the section titled ''*Programs Found Not to Confer Subsidies*'' of this notice. All cash grants and interest subsidies provided to Fafer were provided prior to 1988, however at verification we found that subsidiaries of Fafer received cash grants after 1988. Because we have no specificity information for these years and for the reasons outlined in the facts available section above, we are treating these grants as regionally specific. Therefore, for these Final Results, we are countervailing grants provided after 1988 to Fafer's affiliates.

To calculate the benefit in this review for grants received by CD and PFM, we employed the standard grant methodology outlined in the allocation section of the GIA (58 FR 37227). We allocated the benefit from each grant received by CD and PFM over 26 years, Fafer's AUL. As the discount rate for grants received by CD and PFM, we used the long-term prime rates for each year in which grants were provided. (For information on the benchmark, *see Comment 1* below). We summed the benefit amounts attributable to the POR and divided the result by Fafer's total consolidated sales during the POR. Accordingly, the net subsidy for this program has changed and the subsidy rate is 0.35 percent *ad valorem*.

B. New Programs Determined to Confer Subsidies

1. Promotion Brochure

In the Preliminary Results, we found this program did not confer subsidies because the loan interest rate was higher than the benchmark rate in the year the loan was approved. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, has led us to modify our findings from the *Preliminary Results* for this program.

The Walloon Export Agency (AWEX) administers this program and provides assistance to companies in the Walloon region to make advertising brochures for international markets. Under this program, loans are extended for a five-year period with a fixed annual interest rate. However, the company is not required to make interest payments on the loan until the five-year period has ended. At the end of this period, if the company has met certain targeted sales and profit goals generated from exports, as established under the program, the loan must be repaid. Fafer received a loan under this program in 1996, the POR. We confirmed at verification that Fafer paid no interest on this outstanding loan during the POR.

Under section 771(5A)(B) of the Act, an export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as one of two or more conditions. After examination of this program, we determine this program to be an export subsidy pursuant to section 771(5A)(B) of the Act. In addition, by waiving the interest fees on the loan, the actions of the Walloon government conferred a benefit in accordance with section 771(5)(E)(ii) of the Act. Therefore, we determine this program to be countervailable.

To calculate the benefit from this long-term fixed-rate loan, the repayment of which is contingent upon subsequent events, we treated the balance on the outstanding loan during the 1996 review period as a short-term loan. We measured the interest savings on this outstanding loan during the 1996 review period using the long-term prime rate as the benchmark (see *Comment 1,* below.) We then divided the benefit for the POR by Fafer's total export sales during the POR. On this basis, we determine the net subsidies for this program to be less than 0.005 percent *ad valorem*. Our analysis of the comments on this program submitted by the interested parties are summarized in *Comment 7,* below.

2. Audio-Visual Calling Card

At verification, we found a new program under which Fafer received in 1990 a fixed-rate long-term loan to produce an audio-visual calling card to present to foreign businessmen. Under the terms of the loan, if a company meets targeted sales and profit goals generated from exports, it must repay the loan. In addition, companies are not obligated to pay interest during the five-year term of the loan. At verification, we found that Fafer had not made any interest payments on this outstanding loan during the POR.

Under section 771(5A)(B) of the Act, an export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as one of two or more conditions. After examination of this program, we determine this program to be an export subsidy pursuant to section 771(5A)(B) of the Act. In addition, by waiving the interest fees on the loan, the actions of the Walloon government conferred a benefit in accordance with section 771(5)(E)(ii) of the Act. Therefore, we determine this program to be countervailable.

To calculate the benefit on this loan, the repayment of which is contingent upon subsequent events, we treated the balance on the outstanding loan during the 1996 review period as a short-term loan. We measured the interest savings on this outstanding loan during the 1996 review period using the long-term prime rate as the benchmark (*see Comment 1,* below.) We then divided the amount allocated to the POR by Fafer's total export sales during the POR. On this basis, we determine the net subsidy for this program to be less than 0.005 percent *ad valorem*. Our analysis of the comments on this program submitted by the interested parties are summarized in *Comment 8,* below.

II. Programs Found Not to Confer Subsidies

A. Societe Nationale de Credite a l'Industrie (SNCI) Loans

In the *Preliminary Results,* we found that this program did not confer subsidies during the POR. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Results.*

B. Exhibition Stands

In the *Preliminary Results,* we found this program did not confer subsidies during the POR. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Results.*

C. Research and Development Loan Provided Under the Economic Expansion Law of 1970

In the *Preliminary Results,* we found that this program conferred subsidies during the POR based on our finding in the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium (Final Determination)* 58 FR 37273; 37275 (July 9, 1993) that the 1970 Economic Expansion Law was regionally specific. However, at verification, we found that the authority for administering the law of 1970 has devolved to the regional governments. This new information led us to examine the specificity of R&D assistance provided under the 1970 Law in the context of the Walloon region rather than Belgium. On the basis of this analysis, we determine that this program is not specific in fact or in law. (*See* Memorandum to Holly A. Kuga from David Mueller dated March 8, 1999, *Decision Memorandum Re: Specificity of the Research and Development (R&D) Aid in the 1996 Countervailing Duty Administrative Review of Certain Cut-to-Length Carbon Steel Products from Belgium,* public version on file in room B–099 of the main Commerce Building.) Our analysis of the comments on this program, submitted by the interested parties, are summarized in *Comment 10* below.

III. Programs Found to be Not Used

In the Preliminary Results we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

A. Resider Program
B. European Commission-approved Grants
C. Early Retirement
D. The ''Invests'
E. SNSN
F. FSNW
G. Belgian Industrial Finance Company (Belfin) Loans
H. Government-Guaranteed Loans issued pursuant to the Economic Expansion Laws of 1959 and 1970
I. Programs under the 1970 Law
  1. Exemption of the Corporate Income Tax for Grants
  2. Accelerated Depreciation Under Article 15
  3. Exemption from Real Estate Taxes
  4. Exemption from the Capital Registration
J. ECSC Article 54 Loans and Loan Guarantees
K. ECSC Redeployment Aid
L. European Social Funds Grants
M. Interest Rate Subsidies Provided by Copromex
N. Employment Premiums
O. Short-term Export Credit

P. New Community Instrument Loans
Q. European Regional Development Fund Aid
R. ECSC Interest Rebates under Article 54
S. ECSC Conversion Loans under Article 56
T. ECSC Interest Rebates under Article 56

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Results.*

Analysis of Comments

Comment 1: Kreditbank Interest Rates vs. the IMF Rates

Petitioners argue that in the *Preliminary Results,* the Department used an incorrect benchmark interest rate for SNCI Loan 3. According to petitioners, the Department used as its benchmark, the 1988 annual Kreditbank interest rate instead of the Kreditbank interest rate for the month in which the loan was approved. Petitioners assert that the monthly Kreditbank interest rate is the correct rate and that by adding an appropriate spread to this base rate, the Department will find that the loan was provided on favorable terms. Petitioners assert that during the summer of 1988, interest rates fluctuated significantly, and that this justifies the use of the monthly Kreditbank interest rate rather than an annual average interest rate.

Petitioners argue that between June and September 1988, the Belgian prime interest rate reported by the International Monetary Fund (IMF) rose substantially. According to petitioners, the IMF prime rate represents the maximum rate charged by deposit money banks to prime borrowers. Petitioners assert that the Kreditbank interest rates used in the *Preliminary Results* contradict the IMF rates because: (1) The basis points added to loans extended to firms that the Department labels as uncreditworthy is substantially lower than the IMF prime rate for September 1988; and (2) during the three month period in 1988 when the IMF rates rose 125 basis points, the Kreditbank rate rose by only 23 basis points.

Petitioners argue that there are two explanations for the discrepancies between the Kreditbank rates and those reported by the IMF. First, Kreditbank interest rates could be for longer terms than the IMF prime rate, which covers short-term and medium-term loans. Petitioners maintain that this explanation is not likely because long-term interest rates are usually higher than short-term rates, and a comparison of Belgian government bond rates of differing maturities supports this relationship during 1988. Second, Kreditbank loans could be secured by collateral or have other features that make them lower risk loans than the loans upon which the IMF prime rate is based. In either case, the petitioners reiterate their assertion that the Kreditbank rate is an inappropriate benchmark.

Moreover, petitioners argue that information collected at verification demonstrates that the benchmark rate used in the *Preliminary Results* understates the cost of borrowing in Belgium because: (1) The average margin for a Kreditbank loan is 70 basis points while the benchmark rate used in the *Preliminary Results* includes only a margin of 15 basis points; and (2) the benchmark rate does not include upfront fees that several of the bankers indicate are commonly used. Petitioners maintain that the IMF reports the maximum prime rate to eliminate the effect of the upfront fees indicated in the banking verification report. (*See Verification Report for Private Commercial Banks* dated January 22, 1999, public versions on file in room B–099 of the main Commerce Building at 1). Petitioners also assert that Fafer does not have any type of customer relationship with Kreditbank because it had no long-term commercial debt and there is no evidence on the record that demonstrates that Fafer has ever borrowed from Kreditbank. Petitioners argue that Fafer probably borrowed from SNCI because it could not procure funds elsewhere.

Petitioners further argue that the verification reports show that the IMF rates submitted to the Department for use as the benchmark rates are reliable. Petitioners maintain that they have demonstrated that the IMF data accurately reflects the Belgian market at a particular point in time, September 1988. Moreover, petitioners claim that if the Department uses the IMF benchmark, it will, in the case of Fafer's SNCI loans, find that the benchmark rate is higher than the program interest rates. Thus, the Department will make the correct determination that SNCI loans were provided at rates that were inconsistent with commercial considerations. Since these loans are specific and provided at favorable preferential rates, petitioners maintain that the Department should countervail Fafer's SNCI loans in these Final Results.

Petitioners argue that the Department can not use Kreditbank rates as a benchmark, because at the time Fafer borrowed from SNCI, Kreditbank rates were not available to Fafer. Petitioners further argue that Kreditbank interest rates are inappropriate in this case for a national average benchmark because they are a single bank's interest rate.

As another alternative for the IMF rates, petitioners suggest using LIBOR plus 70 basis points. Petitioners maintain that the commercial bankers cited in the verification reports identified LIBOR as a common basis of lending in Belgium and the 70 basis points is the mid-point of the spreads cited by the bankers. In conclusion, petitioners maintain than no matter which benchmark rate the Department selects, it should use a monthly rate rather than an average annual rate, in light of the fluctuations noted above.

Fafer argues that petitioners did not understand the source for the Kreditbank interest rate used in the Department's calculation. Fafer maintains that this interest rate was derived by averaging Kreditbank's four published rates for 1988 and adding a 15 basis point spread to obtain the national average to the year. Fafer claims that the base interest rate used to determine benefits for this loan was not a specific rate in Kreditbank's schedule, but the average of 1988 published rates. Thus, petitioners' concerns are moot because the Department has incorporated the 15 point spread in its national average rate for 1988. In response to petitioners' claim that the bank verification report indicates that the average margin for a Kreditbank loan is 70 basis points, Fafer asserts that the same bankers who cited the 70 average basis points also noted that the number of basis points can fluctuate depending on the circumstances and in some cases could be zero. Moreover, Fafer claims that these bankers do not indicate that for the year in question the average of 70 basis points was applicable.

Respondent also argues that the Department has selected the Kreditbank rates in accordance with it's hierarchy for selecting comparable benchmark rates as stated in the *Final Determination* 58 FR 37273 (July 9, 1993). In compliance with its hierarchy of selecting a benchmark for the long-term loan, the Department first sought company-specific information on lending. Because this information was not available for Fafer, the Department went to the next level of its hierarchy, and used a national, average long-term rate. Respondent asserts that the Department's decision to use Kreditbank rates as the national long-term interest rates are consistent with its practice for long-term variable rate loans as described in the *1997 Proposed Regulations.* (*See Notice of Proposed Rulemaking and Request for Public Comments,* 62 FR 8818 (February 26, 1997)). Respondent asserts that under section 351.504(a)(1) of the *1997 Proposed Regulations* the Department uses comparable commercial loans to determine the benefit on a government-provided loan. According to respondent, the Department states in proposed section 351.504(a)(5) that for long-term loans the Department will use a comparable long-term loan. If the firm has no comparable commercial loans, as in Fafer's case, respondent asserts that the Department will use an average interest rate for comparable commercial loans, which it did in this review by applying the Kreditbank rates.

In response to petitioners' argument that the benchmark rate does not include ''upfront fees'' and is therefore unreasonable, Fafer maintains that only one of the bankers interviewed stated in his explanation of the Belgian banking system that up-front fees exist and could affect the interest rate. Fafer further asserts that this banker did not state that it was the normal banking practice in Belgium and that Fafer would be required to pay such fees.

In response to petitioners' claim that the IMF prime rate should be the benchmark, Fafer argues that the IMF prime rate is a short-term rate which should not be applied as a benchmark for Fafer's long-term variable interest rate loan. According to Fafer, the company received SNCI loan 3 on June 10, 1983 and was able to renegotiate the interest rate periodically. Fafer claims that although the Department's practice may be to treat long-term, variable rate loans as a series of short-term loans, the loan was not initially negotiated and received in 1988. Fafer asserts that in 1988, it was not possible to withdraw from the 1983 loan it was repaying and negotiate for a new loan with other commercial banks for a lower rate as petitioners suggest. With regard to this loan, Fafer maintains that its only option was to renegotiate the interest rate, which it did at the time short-term interest rates began to fall. Moreover, Fafer supports the Department's application of the average of Kreditbank rates for 1988 as the appropriate national average long-term variable interest rate.

In reply to petitioners' claim that the benchmark is not reliable because Fafer has no lending history and thus, did not have a special relationship with Kreditbank, Fafer reasserts that it has no long-term loans during the years in question; therefore, no bank is likely to have a better lending history with the company. Fafer argues that petitioners are incorrectly interpreting the verification report and maintains that the bankers in the verification report only indicate that a bank's relationship with its customer can influence the interest rate. Fafer argues that nowhere in the verification report or in the record does it state that a company without such a relationship with the bank would not be able to obtain the average rate, which is the benchmark.

Moreover, Fafer contends that, at verification in this review, the Department found that there was no support for using the IMF rate as a benchmark because it does not reflect the realities of banking in Belgium. Fafer further argues that the verification report shows that the Kreditbank rate is the correct benchmark because it is a specific country rate that takes into account the actual and highly competitive Belgian bank lending environment.

Fafer argues that, at the time the loan was renegotiated in 1988, fifteen years of repayment remained, and that comparing a 15-year loan to a short-term loan would not be appropriate.

Moreover, Fafer maintains that because the company has been completely responsible for repayment of the 1983 SNCI loan since 1990, and the commercial loan rates applicable to such a long-term loan have fallen below the rate still applicable to the SNCI loan, the Department does not have a basis for determining the government-provided loan provided a benefit to Fafer in these Final Results.

Department's Position: Petitioners suggest that the Department compare the SNCI loan, a government-provided long-term loan, to a monthly benchmark, using the month in which the SNCI loan agreement was renegotiated. In making the comparison of long-term government-provided loans to comparable commercial loans, the Department's practice is to use an annual average interest rate during the year in which the loan was received. (*See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy* 63 FR 40474 (July 29, 1998)). We do not agree with petitioners argument that fluctuations in the IMF interest rates for Belgium for a few months during 1988 warrants the use of a monthly benchmark instead of an annual benchmark for all loans during the POR. Therefore, we are continuing to use an average annual rate as the benchmark and discount rates in these Final Results.

Petitioners also assert that the Department should use IMF rates as the benchmark for long-term lending in these Final Results. At verification, we discussed this possibility with commercial bankers, and none supported the IMF rates as a reasonable reflection of commercial market interest rates. (*See Verification Report for Commercial Banks* dated January 22, 1999). In fact, the bankers strongly indicated that these rates would not serve as an appropriate benchmark for long-term lending in Belgium. Bank officials also indicated that with regard to long-term lending, there is much competition among Belgian banks which puts a downward pressure on commercial interest rates. During the POR, bankers indicated that Belgian long-term interest rates were based on the Belgian prime rate. (*See Verification Report for Commercial Banks* dated January 22, 1999).

We agree with the respondent that IMF rates should not be used because they do not reflect market rates on long-term lending. As stated in the *Final Determination,* where the respondent did not have long-term loans from commercial banks during or before the year in which the terms of the government-provided loan were established, we used a national, average long-term rate. *See* 58 FR 37273; 37288–37289 (July 8, 1993). Consistent with our approach in the *Final Determination,* the Department has chosen the Kreditbank benchmark as a national average interest rate because these rates apply to long-term commercial loans in Belgian currency. In the *Final Determination,* we explained that the verified Kreditbank rates can have a margin between 0 to 30 basis points, and we used the average estimate of this spread, 15 basis points, in our calculations. Accordingly, in these Final Results, we are using as our benchmark the same rates as in the *Final Determination,* the fixed long-term rates provided by Kreditbank, to determine the benefit for non-recurring cash grants under the Law of 1970 that we have previously allocated in the original investigation, and the SNCI long-term loan renegotiated prior to 1992. Moreover, with regard to SNCI Loan 3, we will continue to use the annual average benchmark that was established in the original investigation.

With regard to benchmark rates for the period since the investigation (1992 through the 1996 POR), at verification we determined that the most appropriate benchmark rate would be based on the prime rates of the major commercial banks. We collected information on commercial long-term lending rates in Belgium from KBC (the bank resulting from the merger of Kreditbank with Cera Bank). Bank officials provided the prime rates which are the base rate of commercial banks in Belgium for credits with a term of five years or more. These prime rates are based on the banks' cost of funding, the interest rate swap (IRS) and include a 40 to 50 basis points spread. Consequently, we have used 45 basis points as the average point spread above the IRS rate which is included in these prime rates. Bank officials also indicated at verification that the margin on long-term loans is, on average, 70 basis points above the IRS rate. Because we verified that the average spread was 70 basis points above the IRS rate, we added 25 basis points to the prime rate in our calculations to obtain our benchmark.

Comment 2: The Use of Varying Levels of Benefit Analysis to Countervail Benefits Received Under the Economic Expansion Law of 1970

In the *Preliminary Results,* the Department countervailed the benefits received from the cash grants under the 1970 Law only to the extent that they exceeded the benefits available under the July 17, 1959 Law (1959 Law) which had been found generally available. Petitioners maintain that this methodology is not consistent with section 355.44(n) of the Department's *1989 Proposed Regulations* and past practice in applying the tiered benefits analysis only to benefits under a single program. Petitioners claim that the Department departed from its prior practice in the original investigation and applied the tiered benefits analysis to the 1959 Law and the 1970 Law which are two separate programs. (*See 1989 Proposed Regulations,* 54 FR at 23382). Petitioners argue that the record evidence does not support the use of a varying levels of benefit analysis.

According to petitioners, the Department only analyzes two separate programs together in the context of an ''integral linkage'' analysis, in which the specificity of the two programs are examined as one. Petitioners cite the *1997 Proposed Regulations* (62 FR 8825) and state that the circumstances that lead to analyzing two programs as a single program include circumstances ''where two or more programs have the same particular purpose, bestow the same type of benefits, and confer similar levels of benefits on similarly situated firms.'' (*See Notice of Proposed Rulemaking and Request for Public Comments,* 62 FR 8818 (February 26, 1997).

Petitioners argue that in this case the 1959 Law and the 1970 Law provide different types and levels of benefits, and can not be considered a single program. For instance, the 1970 Law provides accelerated depreciation, income tax exemption for cash grants, and assistance for research and development, commercial program, and management studies. More importantly, petitioners argue, record evidence in this review suggests that the 1959 Law no longer exists. Petitioners assert that by 1980, the 1959 Law had been repealed for the Brussels-Capital region and the Flemish region. Petitioners assert that even if the 1959 Law continued to exist through 1991, the record indicates it was specific to the Walloon region after 1980 and can not be the basis for a varying levels of benefit analysis. Accordingly, in the Final Results, the Department should at a minimum countervail fully the cash grants received under the Law of 1970 after August 31, 1991, when the 1959 Law ceased to exist.

Petitioners further assert that the GOB's verification report in the original investigation indicates that the July 18, 1959 law (a separate 1959 Law) was repealed on December 30, 1970. Petitioners maintain that to the extent that this 1959 law is used in the Department's varying level of benefits methodology, there is no basis for the tiered levels of benefit analysis with regard to both previous and new countervailable subsidies.

In rebuttal, Fafer argues that the Department's tiered-benefits analysis for the same cash grants under consideration in this review was upheld by the U.S. Court of International Trade in *Geneva Steel et al.* V *United States,* 914 F. Supp. 563 (CIT 1996) (*Geneva Steel*). Fafer asserts that in *Geneva Steel,* the Court held that, the Department's regulations do not limit the tiered-benefit analysis to a single program. Fafer claims that petitioners' assertion, that these programs can not be deemed a single program because there are certain differences in the benefits received under the 1959 and 1970 Laws, contradicts the Court's holding in *Geneva Steel,* in which the Court ruled that the tiered-benefits analysis is not limited to a single program. Furthermore, Fafer maintains that the verification reports of the GOB and the GOW in this review indicate that these laws joined to form a part of a larger whole of GOB's programs to support Belgian economic development policy. According to Fafer, this treatment of the 1959 and 1970 laws supports the Department's findings in the *Final Determination* and the *Preliminary Results* that the noncountervailability of the 1959 law limits the countervailability of the 1970 law.

Furthermore, Fafer argues that contrary to petitioners claims, there is neither new factual information nor legal circumstances that warrant re-examination of the two-tiered benefits analysis in this review. Fafer argues that petitioners do not provide the proper evidence to substantiate their claim that the 1959 Law was repealed in 1980. Rather, the information cited by petitioners indicates that the 1959 Law was repealed for the Brussels-Capital region and the Flemish region in 1991. Fafer contends that the July 17, 1959 Law is the legal basis for its cash grants received in the early 1980s, not the July 18, 1959 Law, as petitioners suggest. Moreover, Fafer asserts that the Department's verification reports in this review indicate that, contrary to petitioners assertions, the 1959 Law continued past the years Fafer received benefits.

In addition, Fafer maintains that the record evidence in this review indicates that only the level of subsidies differed between the 1959 and 1970 Laws, even after the administration of the program was transferred to the GOW. Fafer claims that because it has not received any new benefits under the 1970 law from the time of the original investigation, to abandon the two-tiered analysis in this review would be an usurpation of the Court's decision in *Geneva Steel.* Thus, the Department does not have a basis for departing from its tiered-benefits analysis in these

Department's Position: In the *Final Determination* we found cash grants and interest subsidies under the Law of 1970 to be specific because eligibility was limited to firms located in certain regions. However, because the same benefits were provided under the 1959 Law, which was found to be generally available (*see Certain Steel Products from Belgium* 47 FR 39304; 39305 (September 7, 1982,) we countervailed benefits under the 1970 Law only to the extent that they exceeded benefits available under the 1959 Law. Based on the evidence in the record of that case, we determined that this treatment was in accordance with tiered levels of benefits in *Final Negative Countervailing Duty Determination: Certain Granite Products from Italy,* 53 FR 27197 (July 19, 1988). In *Geneva Steel,* the CIT affirmed the Department's decision on this issue, noting that it was consistent with prior practice.

At verification in this review, we confirmed that the 1959 Law was in effect in the Flanders and the Brussels-Capital regions of Belgium prior to 1992, the period covered in the investigation. Therefore, benefits under the 1959 Law were generally available in Belgium at the time Fafer received its cash grants and interest rate subsidies examined in the *Final Determination.* Moreover, there is no new evidence on the record in this review that warrants a change in this review of our finding in the *Final Determination,* that firms qualifying for benefits under the 1970 Law would also qualify for benefits under the 1959 Law. Therefore, we are not changing our treatment of these subsidies received by Fafer prior to 1988 in these Final Results.

Comment 3: Amortization of Countervailable Grants Using the Mid-Year Convention

Petitioners argue that instead of using its standard amortization method, the ''annuity due'' method, the Department should use the ''mid-year convention'' method to countervail the cash grants. According to petitioners, the ''mid-year convention'' method of amortizing subsidies is more accurate with respect to the commercial reality of a company's ongoing production and sales activity because it presumes that benefits are being used throughout the year and that generally subsidies are being received in the middle of the year of benefit. In contrast, the ''annuity due'' method is inconsistent with commercial reality because it presumes that subsidies are always received at the beginning of the year and that the subsidy benefits allocated to that year are immediately expensed at that time. Moreover, petitioners maintain that the mid-year convention method is consistent with other allocation methods that the Department uses. For example, in the remand determination in *British Steel I,* the Department reaffirmed that financial events that occur sometime within a specific year should be deemed to have occurred at the mid-point of the year to eliminate any bias. (*See Final Results of Redetermination Pursuant to Court Remand on General Issue of Allocation,* Case No. C–100–004 at 42 n.5 (June 30, 1995.) Petitioners assert that the Department's current allocation method is not consistent with *British Steel I* because it does not eliminate bias by taking into account events that occur at the mid-point of the year.

In addition, petitioners claim that the mid-year convention is consistent with the Department's view that a subsidy is deemed received by a company on the actual date of receipt. Petitioners claim that this method would, on average, more accurately reflect the date of receipt across all programs.

Fafer argues that the Department has chosen to use the annuity due method, and that the application of a different allocation methodology is equivalent to a reallocation of subsidies for which the Department has established benefit streams. Fafer maintains that the Department has stated that in cases where an allocation period has been established in an earlier segment of a proceeding, it will not reallocate subsidies over a different period of time. In conclusion, Fafer argues that the Department should continue to apply its standard amortization methodologies in these Final Results.

Department's Position: The formula for allocating non-recurring benefits over time, which was used in this review, has been a part of the Department's longstanding practice since it appeared in the Subsidies Appendix to *Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 49 FR 18006 (April 26, 1984). As explained in the *Preamble to Countervailing Duties; Final Rule,* 19 CFR Part 351, at 205 (November 25, 1998), we examined several alternative methodologies, including the mid-year methodology and found these methodologies unduly complicated. Our current methodology, which was applied in this case, has been uncontroversial and worked well in past cases. Therefore, we see no compelling need to change our methodology in this review and have continued to apply our long-standing allocation methodology for non-recurring grants in these Final Results.

Comment 4: Amortization Period Based on the IRS Class Asset Life Tables

Petitioners claim that the Department's company-specific average useful life (AUL) methodology is flawed as is demonstrated by Fafer's resulting calculation of an AUL that exceeds the period over which the company actually depreciates its assets. Petitioners assert that Fafer's calculated 26-year AUL is not acceptable given Fafer's admission that no assets are depreciated for more than 20 years and most assets are depreciated over 15 years or less. Moreover, petitioners argue that the Department's company-specific AUL methodology will provide inconsistent results when two companies with similar asset bases use different depreciation methods. According to petitioners, the Department's company-specific AUL methodology has not been mandated by a Court or reviewing body, and is not required by any international agreement. Therefore, petitioners contend that the Department should return to the 15 year AUL period based on the Internal Revenue Service (IRS) class asset life tables in these Final Results.

In rebuttal, Fafer asserts that petitioners recognize that Fafer derived its 26-year company-specific average useful life according to the Department's instructions which were based on the CIT's decision in *British Steel I* and upheld by the Court in *British Steel II.* Fafer maintains that in *British Steel I,* the Court ruled against using the IRS Class Asset Life Table to derive the allocation for non-recurring subsidies. Fafer contends that as a result, the Department determined ''the most reasonable method of deriving the allocation period for the nonrecurring subsidies is a company-specific average useful life of non-renewable physical assets.'' *See* 63 FR at 48189.

In addition, Fafer contends that using the 15-year IRS amortization rule would be in conflict with the tenets of the URAA that give deference to the standards and generally accepted accounting principles of the country and the company under investigation or review. Fafer asserts that the company-specific AUL determined by the Department was derived from questionnaire responses based on Fafer's own data. Therefore, Fafer argues that a factually derived AUL should not be altered for the convenience of the IRS rule, which does not sufficiently address the actual allocation and accounting methods in this review.

Department's Position: As stated in our *Preliminary Results,* we have applied in this administrative review the methodology affirmed in the remand determination *British Steel II* 929 F.Supp. 426, 439 (CIT 1996). With regard to petitioners' claim that the Department's methodology is flawed because Fafer's calculated AUL does not correspond to the company's reported maximum depreciation rate of 20 years, a company's asset depreciation schedule for accounting purposes does not always correspond to the productive life of these assets. We explain in the *Preamble* to the Department's *1997 Regulations* that assets that are in service, even if they have been fully depreciated, are included in the AUL calculation. *See* 62 FR 8818; 8828 (February 26, 1997). In Fafer's case for example, several assets in use since the 1960s that had been fully depreciated in accordance with the company's accounting policy, such as the electric arc furnace, the four high rolling mill, and the continuous caster, have been included in the AUL calculation. Therefore, Fafer's depreciable lives for accounting purposes are not commensurate with the AUL calculation which includes the values of fully depreciated assets while they are still in service. Accordingly, we are using Fafer's company-specific AUL of 26 years to allocate non-recurring grants that were not previously allocated in the original investigation.

Comment 5: The Countervailability of Grants Received by Fafer's Consolidated Subsidiaries

Petitioners argue that in the *Preliminary Results,* the Department failed to countervail grants provided since the original investigation to two of Fafer's affiliates, PFM and CD. Petitioners assert that PFM and CD are almost wholly-owned by Fafer and are fully consolidated with Fafer. Moreover, both of these companies are located within Fafer's production facilities. Petitioners maintain that at verification, the Department found that PFM and CD received cash grant subsidies under the Law of 1970. In addition, petitioners contend that the verification proves that these grants benefitted subject merchandise. Therefore, petitioners argue that the Department should countervail these grants in the Final Results of this review.

Petitioners note that at verification in this review, the Department found that the two grants received by PFM in 1996 were for sheet metal finishing and painting and for sand blasting and painting of flat, steel or nonferrous products, prior to their production. The grant received by CD in 1993 was for an uncoiling machine. Petitioners dispute company officials claims made at verification that the steel coils that CD and PFM decoil, which are produced on a STECKEL mill, were too thin to be cut-to-length carbon steel plate and that PFM's processing equipment was not related to the production of the subject merchandise because the subject merchandise was not painted, sand blasted, or otherwise treated. Petitioners acknowledge that coils produced on the STECKEL mill which are sold in coils could be outside the scope of this countervailing duty order on cut-to-length carbon steel plate. However, petitioners assert that if these same coils are decoiled and cut, they are within the scope of this order. Petitioners contend that at verification, the Department observed that decoiling and slitting of steel in coils occurs at CD and PFM's facilities. Moreover, petitioners argue that the Fafer verification report indicates that coils made on the STECKEL mill are less than 10 mm thick, while the scope of the order covers plate as thin as 4 mm. Finally, petitioners note that at verification of the 1995–1996 administrative review of the antidumping duty order on cut-to-length carbon steel plate, the Department found that PFM's production line "is used mainly for carbon steel products, both structural and pressure vessel" and that CD "is used to process carbon, alloy, and stainless steel coils." [1]

Petitioners contend that Fafer has not demonstrated that the grants to CD and PFM are tied to products other than the subject merchandise. Petitioners further argue that the evidence on the record indicates that the decoiling machine is used to produce cut-to-length plate, or at least can be used to produce the subject merchandise. Moreover, petitioners argue that contrary to the official's claim at verification (that PFM's grant to purchase sand blasting and painting equipment was unrelated to the subject merchandise because "the subject merchandise did not have any of these finishings," (*see* Fafer's Verification Report at 6)) the countervailing duty order includes all plate products "whether or not painted, varnished, or coated with plastics or other nonmetallic substances." *See Preliminary Results,* 63 FR 48189. Petitioners further claim that according to the publication *Iron and Steel Works of the World,* plates up to 3,000mm wide produced by the STECKEL mill have been available since 1994 from Fafer. *See Iron and Steel Works of the World* at 25 (Metal Bulletin Books 12th ed.) (1997).

Petitioners also dispute Fafer's claim that CD and PFM did not engage in any financial transactions with Fafer, noting that the company does not cite any record evidence to support this assertion. Petitioners contend that subsidies to CD's and PFM's should be included in the numerator because the production services that they perform for Fafer-produced and sold products is included in the denominator (*i.e.*, Fafer's total sales). Thus, petitioners claim, CD's and PFM's value-added is a part of Fafer's reported total sales and grants these companies received must be included in the numerator.

In response, Fafer argues that there is no evidence on the record that indicates that Fafer's subsidiaries, CD and PFM, produced the subject merchandise during the POR. According to Fafer, petitioners acknowledge that coils made on a STECKEL mill are potentially outside the scope of the countervailing duty order. Then, Fafer asserts, further finished coils should also be outside the scope. Moreover, in support of its assertion that subsidies to CD and PFM in any case would not be attributable to Fafer, the company cites section 351.524(b)(6) of the Department's 1997 proposed regulations, which state that "[t]he Secretary normally will attribute a subsidy to the products produced by the corporation that received the subsidy."

Fafer claims that the company's sales of subject merchandise to the U.S. during the POR did not include any of the processing described by petitioners at either of the two subsidiaries. Fafer further maintains that the company verification report indicates that CD and PFM own their own facilities and do not have the production equipment that Fafer does. Fafer contends that although petitioners argue that the machinery at CD and PFM could be used to process subject merchandise, in fact, Fafer's shipment of the subject merchandise to the U.S. during the POR did not have any processing done at CD or PFM. Therefore, Fafer argues the issue is whether it produced subject merchandise that was exported to the U.S. which benefitted from the further processing at CD and PFM.

Fafer contends that countervailing CD and PFM's grants in these final results would contradict the Court of International Trade's rulings in *Aimcor et. al.* v. *U.S.* 18 CIT 1117; 871 F. Supp 447, (1994), and *Armco, Inc.* v. *U.S.* (*Armco*), 14 CIT 211; 733 F. Supp. 1514 (1990). Specifically, Fafer asserts that under these Court decisions, a subsidy received by a subsidiary may not be countervailed against products exported by the parent company, unless the subsidy was tied to the subject merchandise exported by the parent.

Department's Position: We reject respondent's assertion that in order for subsidies to CD and PFM to be countervailable, the exports of the subject merchandise to the United States during the POR must have been processed by CD or PFM. Initially, such an approach is not required by the countervailing duty statute, which specifically states that "the administering authority is not required to consider the effect of the subsidy in determining a subsidy exists." Section 771(5)(C) of the Act. Under Fafer's approach, however, the Department would be required to examine specific sales from subsidized subsidiaries that are capable of producing subject merchandise to determine, on a sale by sale basis, whether the merchandise exported to the U.S. "passed-through" the subsidiary. Then, and only then, under respondent's approach, would a subsidiary's countervailable subsidies be attributable to the subject merchandise. Presumably, this approach could lead the Department to countervail such non-recurring subsidies in one review, but not in another. Such an approach leads to absurd results and is simply not

[1] (*See Verification of Cost of Production and Constructed Value Data* dated March 24, 1997, public version on file in CRU).

required under law or practice. Again, as stated in the *GIA*, ''nothing in the statute directs the Department to consider the use to which subsidies are put or their effect on the recipient's subsequent performance * * *. nothing in the statute conditions countervailability on the use or effect of a subsidy. Rather, the statute requires the Department to countervail an allocated share of the subsidies received by producers, regardless of their effect.'' 58 FR at 37260; *see also British Steel* v. *United States*, 879 F. Supp. 1254, 1298 (CIT 1995) (*British Steel*), *appeals docketed*, Nos. 96–1401 to –06 (Fed. Cir. June 21, 1996); *British Steel Corp* v. *United States*, 9 CIT 85, 95–96, 605 F. Supp. 286, 294–95 (1985) (''[I]t is unnecessary to trace the use'' of funds), *citing Michelin Tire Corp*. v. *United States*, 4 CIT 252, 255 (1982), vacated on agreed statement of facts, 9 CIT 38 (1985).

As outlined above, in the *Facts Available* section of this notice because of the level of affiliation and the fact that both subsidiaries are capable of producing subject merchandise, it is appropriate to attribute CD and PFM's cash grants to Fafer's total sales including sales of the subsidiaries.

We also disagree with respondent's assertion that the Court's decisions in *Aimcor* and *Armco* do not permit the attribution of CD and PFM's benefits to Fafer. Respondent reliance on these cases for the proposition that the Department may not attribute countervailable benefits to subsidiary companies to sales of the parent company, unless the parent's shipment of the subject merchandise exported to the U.S. during the POR was processed by the subsidiaries, is misplaced. The facts in *Aimcor* and *Armco* are substantially different from those in the instant review. In *Aimcor*, the relationship between parent and subsidiary was the critical factor in determining whether subsidies to the subsidiary are attributable to the parent company. Moreover, the issue in *Aimcor* was whether a subsidy had been bestowed at all. The issue was not whether countervailable subsidies that had been bestowed on a wholly-owned subsidiary were attributable to the parent company.

Furthermore, the Court's ruling in *Armco* does not support Fafer's position. As we noted in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review* 62 FR 53306 (October 14, 1997) the court understood that attribution decisions in the Department's cases ''turn[ed] essentially upon the Department's findings in particular cases.'' (*See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review* 63 FR 18367; 18371 (April 15, 1998). The court also recognized that ''the Department has attributed benefits received by one company to a related company.'' *Id.* (emphasis in original). Accordingly, we do not agree that *Armco* represents an endorsement of respondent's position of not attributing subsidies received by a subsidiary to the parent company.

Comment 6: Tax Subsidies Under the Law of 1970

According to petitioners, in *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Plate in Coils from Belgium* (*Stainless Steel*), the Department found additional tax subsidies under Articles 15 and 16 of the Law of 1970. *See Stainless Steel*, 63 FR 47239 at 47242 (September 4, 1998). Under Article 15, firms can declare twice the standard depreciation for assets acquired using grants received under the 1970 Law, and under Article 16, assets obtained with 1970 Law grants can be exempted from real estate taxes for up to five years. Petitioners assert that the Department preliminarily found both of these programs countervailable and calculated the subsidy rate from the accelerated depreciation program and the real estate tax exemption program to be 0.49 percent *ad valorem* and 0.04 percent *ad valorem*, respectively.

Petitioners contend that at verification Fafer and the GOW maintained that Fafer had not received any benefits under these programs, however, they failed to include the use of these programs by CD and PFM, Fafer's affiliates. Petitioners argue that the verification exhibits show that PFM may have benefitted from these programs. Moreover, petitioners assert that because Fafer failed to disclose benefits under these programs, the Department should use facts available and apply the rates calculated in *Stainless Steel* to calculate the benefits received by Fafer in these Final Results.

In rebuttal to petitioners' assertion that PFM's double depreciation should be applied to Fafer, respondent maintains that PFM was not involved in the production, processing, or export of the subject merchandise to the U.S. during the POR. Fafer contends that the verification reports indicate that it did not receive these tax subsidies and that such benefits were not attached to its exports. In conclusion, Fafer asserts that PFM's supposed benefits from accelerated depreciation should not be included in the calculation of Fafer's net subsidy rate in these Final Results.

Department's Position: Although PFM's verification exhibits indicate that it was approved to receive assistance under additional tax programs under the Law of 1970, we have no evidence on the record that PFM actually received these benefits during the POR. With respect to real estate taxes, information collected at verification indicates that CD and PFM did not use these grants to purchase real estate. Moreover, with regard to benefits from accelerated depreciation, Fafer's consolidated financial statement, which includes PFM, indicates that the consolidated group did not use accelerated depreciation for financial reporting purposes during the POR. Therefore, we are not including benefits to PFM from these programs in the calculation of Fafer's net subsidy rate in these Final Results. We will, however, examine benefits under these programs provided to Fafer's affiliates, CD and PFM in future administrative reviews.

Comment 7: Promotion Brochure Loan

Petitioners argue that in the Preliminary Results, the Department incorrectly found that the fixed-rate, long-term loan Fafer received for the publication of the promotion brochure did not provide countervailable benefits, because the Department compared the interest rate paid on the loan to (an inaccurate) benchmark rate, that was lower than the program rate. Petitioners also assert that the Department confirmed at verification that no interest was paid on this loan during the POR. Furthermore, petitioners argue that the verification reports indicate that Fafer does not anticipate paying any interest on the loan which is granted on a contingent basis. The loan agreement indicates that the company does not have to make any payments on this loan until after five years, at which time the firm is required to pay only if the targeted export sales volume and profit level has been obtained during the five year period. Petitioners maintain that the likelihood of Fafer meeting the contingent export sales and profit target levels is unlikely. Therefore, the Department should treat this loan as a grant pursuant to section 351.505(d)(2) of the Department's regulations in these Final Results. If not, petitioners assert that this loan should at a minimum be treated as an interest-free contingent liability loan under section 351.505(d)(1) of the Department's regulations.

In rebuttal, Fafer argues that the Department should not countervail the export promotion brochure loan. Fafer maintains that although the loan was received in 1996, the end result of the loan will not be known until it matures. According to Fafer, there is no information pertaining to whether this loan will be forgiven or whether it will be repaid at the fixed rate specified in the agreement. Fafer argues that until the loan matures and it is known whether it will be repaid and at what rate of interest it is repaid, there may be no benefit. On the other hand, if at maturity the total amount of the loan is not repaid, Fafer contends that the portion of the loan that is unpaid would be treated as a grant in the year the loan is forgiven. Further, Fafer argues that even assuming the loan is not repaid, the only amount to be considered during the POR would be the annual amount of interest for part of 1996. Fafer maintains that the benefit from this scenario is less than 0.00015 percent and should not be included in the countervailing duty rate in these Final Results.

Department's Position: We agree with petitioners that this loan provides countervailable benefits during the POR. However, at verification we found that the assistance provided under this program was an outstanding loan during the POR, and that this loan had not yet been forgiven. Moreover, the respondent had no knowledge of whether it would meet the targeted export goals which would result in repayment of the loan. Because the loan under this program has not yet been converted into a grant, we are treating this assistance as a contingent liability loan in these Final Results. *See New Programs Determined to Confer Subsidies* section above for a detailed description of the calculation of this subsidy.

Comment 8: Promotion Audio-Visual Loan

Petitioners argue that at verification, the Department found that Fafer had received an interest-free loan in 1990 to produce an audio-visual calling card. Petitioners assert that the agreement for this loan indicates that the company must repay the loan only if it obtains the minimum volume and profit increases in export sales required within the five year time period which begins at the closing of the first fiscal year in which the loan is received. Petitioners also maintain that although the loan agreement indicates that the loan was interest-free for only five years, there is no indication that Fafer paid any interest or made any repayment on the principle. Moreover, petitioners contend that on April 7, 1997, the GOW converted the loan into a grant, and Fafer subsequently wrote the loan off its books and amortized the amount.

Petitioners argue that this loan, which was forgiven in 1997, should be countervailed as a grant during the POR because Fafer knew that the contingency, the minimum threshold level increase in exports and profits, would not be met in 1996, the POR. Moreover, petitioners maintain that the Department should further countervail the portion of the subsidy which was an interest free loan until the time of forgiveness.

Department's Position: We agree with petitioners that the loan for an audio-visual calling card found at verification conferred benefits during the POR. Our calculation of the benefit from this program is described above under the section titled ''*New Programs Determined to Confer Subsidies.*'' We found at verification that this loan was outstanding during the POR and became a grant in 1997, subsequent to the POR. Therefore, we have treated this assistance as a contingent liability interest-free loan in these Final Results and calculated the benefit using information collected at verification as discussed in the *Facts Available* section of this notice.

Comment 9: Fafer's Consolidated Sales Value

Petitioners argue that since two of Fafer's consolidated subsidiaries received countervailable subsidies during the POR, the Department should use Fafer's consolidated sales value as the denominator instead of the unconsolidated sales value used in the Preliminary Results. Petitioners maintain that the Department sought data on consolidated sales at verification and Fafer claimed that it was unable to calculate consolidated sales on a calendar year basis. Accordingly, petitioners argue that the Department should use facts available to calculate the consolidated sales value and use this information as the denominator in these Final Results.

In rebuttal, Fafer argues that it has provided sufficient information regarding the fiscal/calendar year and that the company also submitted half-year data to assist in tracking company records. Fafer contests petitioners' suggestion of constructing consolidated sales based on percentage factors, especially since the sales of Fafer's subsidiaries are not at issue. Fafer asserts that the verification report supports the Preliminary Results in which the Department used Fafer's unconsolidated sales. Accordingly, Fafer argues unconsolidated sales should be used in the Department's calculations of these Final Results.

Department's Position: Because we are finding that grants provided under the 1970 Law to Fafer's subsidiaries, CD and PFM, conferred countervailable benefits on the subject merchandise during the POR (*see Comment 5* above), we must include their sales in the denominator to determine the subsidy rate. Fafer's consolidated sales for the POR have not been submitted in this review, notwithstanding Department requests for this information, and we were not able to obtain this information at verification. Therefore, in accordance with Section 776(a) of the Act, we have used facts available to derive Fafer's consolidated sales. To calculate Fafer's consolidated sales, we reduced Fafer's unconsolidated sales for the POR, by the same percentage difference between Fafer's 1995/96 fiscal year consolidated and unconsolidated sales in the company's financial statements. We applied this ratio to Fafer's reported unconsolidated 1996 sales to obtain an estimated denominator for the POR. We are using this calculated consolidated sales figure in these Final Results.

Comment 10: Green Light Treatment for the Research and Development Loan (R&D Loan) Under the Law of 1970

Fafer first maintains that the Department did not provide any substantive reason for denying its green light claim for the Research and Development Loan (R&D Loan) in the preliminary results, and that the claim should be considered for these final results. According to Fafer, the R&D Loan meets the greenlight criteria of section 771(5B)(B) of the Act.

According to petitioners, the Department correctly rejected Fafer's claim that the interest-free R&D loan should be treated as a green light subsidy in the preliminary results. Petitioners assert that the Department properly rejected Fafer's claim on both a procedural and substantive grounds. Moreover, petitioners argue that Fafer has not demonstrated that the R&D loan meets the statutory criteria for green light claims under the conditions of the SCM Agreement.

Petitioners also argue that because interest subsidies under the 1970 Law are specific, the interest-free loan is countervailable. Petitioners contend that the Department stated in its preliminary results that this program was specific because it provides incentives to promote economic development in designated development zones.

Petitioners assert that this determination is consistent with the final determination in which the Department found all grants and interest subsidies provided under the 1970 Law to be specific and countervailable.

Petitioners contend that subsequent to the preliminary results of this review, the GOB made a new specificity claim. Specifically, petitioners maintain that the GOB claims that the first part of the 1970 Law deals with aid to development zones and is regionally specific, while the second part of the 1970 Law involves research and development programs and is generally available. Petitioners argue that the record does not support this claim.

Petitioners assert that Article 25 of the 1970 law, under which this subsidy was granted, does not indicate that assistance under this Article is generally available. Petitioners argue that at verification, the Department found that this subsidy was provided under Article 25 of the 1970 Law and that equivalent benefits were not available to firms outside of the development zone areas. Thus, petitioners contend, benefits bestowed under this program were regionally specific at the time Fafer received its benefits.

Further, petitioners argue that to the extent Article 25 subsidies were changed by later amendments to the 1970 Law, these amendments do not affect the specificity of Fafer's loan. Petitioners contend that at verification the Department found that Article 25 had been replaced by the Walloon Decree of July 5, 1990. However, petitioners argue this change was not implemented until September 29, 1994. Petitioners assert that Fafer applied for its loan in 1988, was approved for the loan in 1989, and received all payments by 1992, years before changes to this program took place. Therefore, petitioners argue that Fafer has not demonstrated that this program is not specific.

Department's Position: As noted above, in the section titled *Programs Found Not to Confer Subsidies,* on the basis of our findings at verification, we find this program to be not specific in these final results. *See* (*See* Memorandum to Holly A. Kuga from David Mueller dated March 8, 1999, *Decision Memorandum Re: Specificity of the Research and Development (R&D) Aid in the 1996 Countervailing Duty Administrative Review of Certain Cut-to-Length Carbon Steel Products From Belgium,* public version on file in room B–099 of the main Commerce Building.) Accordingly, we have not addressed Fafer's claim for green light status.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1996 through December 31, 1996, we determine the net subsidy for Fafer to be 0.35 percent *ad valorem.*

As provided for in the Act, any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis.* Accordingly, the Department intends to instruct Customs to liquidate, without regard to countervailing duties, shipments of the subject merchandise from Fafer exported on or after January 1, 1996, and on or before December 31, 1996. Also, the cash deposits required for these companies will be zero.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See Final Determination.* These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1996 through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(7)).

Dated: March 8, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–6288 Filed 3–15–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–894–802]

Notice of Initiation of Countervailing Duty Investigation: Certain Cut-To-Length Carbon-Quality Steel Plate From the Former Yugoslav Republic of Macedonia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 16, 1999.

FOR FURTHER INFORMATION CONTACT: Eva Temkin, at (202) 482–1167, Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the